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Department of Water Resources

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 65-03004

I. FINDINGS OF FACT

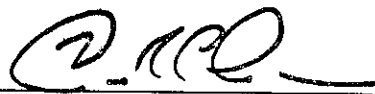
A notice of claim was filed for the above listed water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On June 9, 2000, the United States of America, Bureau of Reclamation filed a *Motion to File Late Objections* in multiple subcases. The Motion was granted on July 28, 2000. The objections were filed to "General Provisions Basin 65 Irrigation & Other Part III (3) Separate Streams Administration." On May 13, 2003, a *Standard Form 5* was filed. All parties and IDWR are signatures to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that these water rights be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED May 20, 2003.


THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-03004

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DISTRICT COURT-SRBA
TWIN FALLS CO, IDAHO
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NAME AND ADDRESS: MARCIA H HERR
RODNEY H HERR
400 COSTON DR
BOISE, ID 83712

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SOURCE: SQUAW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 2.38 CFS

PRIORITY DATE: 04/01/1864

POINT OF DIVERSION: T08N R01E S27 SENW Within Gem County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 04-01 TO 11-01 2.38 CFS

PLACE OF USE: Irrigation Within Gem County
T07N R01E S03 LOT 3 (NENW)20.0 LOT 4 (NWNW)39.0
T08N R01E S34 SWSW 36.0 SESW 24.0
119.0 Acres Total

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

BASIN 65 GENERAL PROVISIONS NO. 3, THE SEPARATE STREAMS
GENERAL PROVISION, DOES NOT APPLY TO APPROPRIATIONS OF WATER
AFTER OCTOBER 18, 1977.

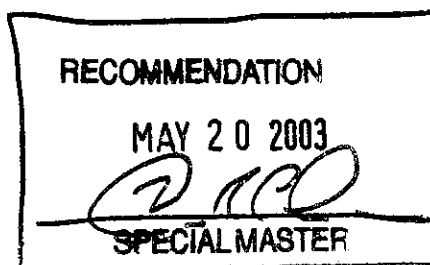
THIS WATER RIGHT SHALL BE ADMINISTERED AS BEING FROM A
SEPARATE SOURCE PURSUANT TO BASIN 65 GENERAL PROVISION NO. 3.
IF THE HOLDER OF THIS RIGHT SEEKS TO CHANGE THE RIGHT PURSUANT
TO IDAHO CODE SECTION 42-222 OR SUCCESSOR STATUTE, NOTHING IN
THIS GENERAL PROVISION SHALL PRECLUDE ANY OTHER PERSON OR ENTITY
FROM DEMONSTRATING THAT SUCH CHANGE IN USE WOULD CAUSE INJURY
TO ITS WATER RIGHT OR FROM RECEIVING ANY RELIEF PROVIDED BY LAW
IN THE EVENT OF INJURY.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication



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In Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s) : 65-03004

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on May 20, 2003, with sufficient first-class postage prepaid to the following:

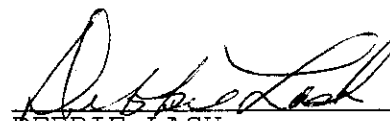
DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

UNITED STATES OF AMERICA

Represented by:
DAVID W GEHLERT
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATRUAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

MARCIA H HERR
RODNEY H HERR
Represented by:
SCOTT L. CAMPBELL
101 S CAPITOL BLVD, 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

CERTIFICATE OF MAILING


DEBBIE LASH
Deputy Clerk

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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

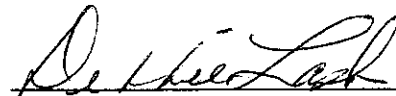
Water Right(s): 65-03004

On May 20, 2003, Special Master THOMAS R CUSHMAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED May 20, 2003.



DEBBIE LASH
Deputy Clerk